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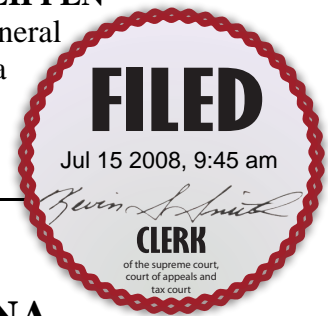
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**IN THE
COURT OF APPEALS OF INDIANA**

TAHMARUS TURNER,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 27A02-0801-CR-85

APPEAL FROM THE GRANT SUPERIOR COURT
The Honorable Jeffrey D. Todd, Judge
Cause No. 27D01-0708-FB-178

July 15, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Tahmarus Turner challenges the sufficiency of the evidence supporting his conviction for class D felony strangulation. We affirm.

The facts most favorable to the jury's verdict indicate that on August 15, 2007, Turner and his live-in girlfriend Jessica Ganaway got into a fight at Turner's apartment in Marion. During the fight, Turner grabbed Jessica's cellular phone and threw it against the wall, causing it to shatter. Turner then put Jessica's SIM card into his phone and allowed her to use it to ask her mother to come and pick her up. Turner and Jessica continued arguing while Jessica boxed up her things and carried them out to her car. As Jessica returned to the apartment from one of her trips to the car, Turner asked for his phone back, and Jessica refused. Turner tried snatching the phone from Jessica's hands, and she shoved him into a wall. Turner elbowed her in the stomach, causing her to vomit. Jessica then grabbed Turner by his shirt, and he put his hands over her nose and mouth until she nearly blacked out and was forced to let go. Jessica's mother arrived, and Turner admitted to her that he had struck Jessica in the stomach. Jessica's mother then persuaded her to call the police. After calling the police Jessica and her mother waited around the corner for them to arrive. The police entered Turner's residence and took him into custody.

The State charged Turner with class B felony criminal confinement, class C felony intimidation, class A misdemeanor pointing a firearm, class D felony strangulation, and class A misdemeanor domestic battery. At a jury trial on October 16, 2007, Turner received a directed verdict on the class B felony criminal confinement count, was found guilty of class D felony strangulation, and was acquitted on the remaining charges.

On appeal, Turner contends that the evidence was insufficient to sustain a guilty verdict, because the State failed to establish that he had the requisite criminal intent. Our standard of review is well settled:

[W]e neither reweigh the evidence nor judge the credibility of witnesses. Rather, we consider only the evidence that is favorable to the [verdict] along with the reasonable inferences to be drawn therefrom to determine whether there was sufficient evidence of probative value to support a conviction. We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt.

Staten v. State, 844 N.E.2d 186, 187 (Ind. Ct. App. 2006) (citations omitted), *trans. denied*.

To convict Turner of class D felony strangulation, the State was required to prove beyond a reasonable doubt that he, in a rude, angry, or insolent manner, knowingly or intentionally obstructed the nose or mouth of Jessica in a manner that impeded her normal breathing. Ind. Code § 35-42-2-9(b)(2). “A person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.” Ind. Code § 35-41-2-2(b). “A person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.” Ind. Code § 35-41-2-2(a).

Intent is a mental function, and unless an admission is provided by the defendant, “it must be determined from consideration of the defendant’s conduct and the natural and usual consequences thereof.” *Gaerte v. State*, 808 N.E.2d 164, 166 (Ind. Ct. App. 2004). The jury must use reasonable inferences based on an examination of the surrounding circumstances to determine whether, from the defendant’s conduct and natural consequences of what might be expected from that conduct, there is a showing or an inference of the intent to commit that conduct. *Id.*

Here, the evidence most favorable to the jury's verdict established that during a physical fight with Jessica, Turner placed his hands over Jessica's nose and mouth, nearly causing her to lose consciousness. We conclude that the State presented sufficient evidence of probative value from which a reasonable jury could have found that Turner acted with the requisite intent.

Affirmed.

BARNES, J., and BRADFORD, J., concur.